



DEPARTMENT OF VETERANS AFFAIRS

8320-01

PRIVACY ACT OF 1974

AGENCY: Department of Veterans Affairs

ACTION: Notice of New System of Records

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e) (4)) requires that all agencies publish in the Federal Register a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled "Veteran Child Care Programs-VA" (169VA10NC).

DATES: Comments on this new system of records must be received no later than [Insert date 30 days after date of publication in the Federal Register]. If no public comment is received during the period allowed for comment or unless otherwise published in the Federal Register by VA, the new system will become effective [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Written comments concerning the proposed new system of records may be submitted through www.regulations.gov; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an

appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Meri Mallard, Deputy Field Director
Women's Health, Department of Veterans Affairs, 508 Fulton Street, Durham, NC,
27705, telephone (919) 416-5980.

SUPPLEMENTAL INFORMATION:

I. Description of Proposed Systems of Records

Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111-163 requires VA to carry out a program to assess the advisability and feasibility of providing assistance to qualified Veterans to obtain child care so that such Veterans can receive health care services. VA has established child care sites under this program in medical centers to provide hourly child care services to Veterans during their VA appointment. Children, both infants and school-age, can be dropped off at the VA Child Care Center (Center) for the duration of the Veteran's scheduled appointment, at no charge to the Veteran. This system of records contains information on the children who receive child care and the children's parents and/or guardians who are receiving treatment at VA.

II. Proposed Routine Use Disclosures of Data in the System

To the extent that records contained in the system include information protected by 38 U.S.C. 7332, i.e., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus,

that information cannot be disclosed under a routine use unless there is also specific statutory authority permitting disclosure.

The Veterans Health Administration (VHA) is proposing the following routine use disclosures of information to be maintained in the system:

1. On its own initiative, VA may disclose information, except for the names and home addresses of Veterans and their dependents, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto. On its own initiative, VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto. VA must be able to comply with the requirements of agencies charged with enforcing the law and conducting investigations. VA must also be able to provide information to State or local agencies charged with protecting the public's health as set forth in State law.
2. Disclosure may be made to an agency in the executive, legislative, or judicial branch, or the District of Columbia's government in response to its request or at the initiation of VA, in connection with disease tracking, patient outcomes or other health information required for program accountability.
3. The record of an individual who is covered by a system of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member or staff person requests the record on behalf of and at the

written request of the individual. Individuals sometimes request the help of a Member of Congress in resolving some issues relating to a matter before VA. The Member of Congress then writes to VA, and VA must be able to give sufficient information to give a response to the inquiry.

4. Disclosure may be made to National Archives and Records Administration (NARA) and the General Services Administration (GSA) in records management inspections conducted under authority of Title 44, Chapter 29, of the U.S.C. NARA and GSA are responsible for management of old records no longer actively used, but which may be appropriate for preservation, and for the physical maintenance of the Federal government's records. VA must be able to provide the records to NARA and GSA in order to determine the proper disposition of such records.
5. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

6. VA may disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law or regulation. VA must be able to provide information to the Commission to assist it in fulfilling its duties to protect employee's rights, as required by statute and regulation.
7. Disclosures of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform the services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.
8. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.
9. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when: (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been

compromised; and (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

10. Information may be disclosed by appropriate VA personnel to the extent necessary and on a need to know basis, consistent with good medical-ethical practices, to family members.
11. VA may disclose information from this system to the Federal Labor Relations Authority (FLRA), including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections. VA must be able to provide information to FLRA to comply with the statutory mandate under which it operates.

12. VA may disclose information from this system to the Merit Systems Protection Board (MSPB), or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law. VA must be able to provide information to MSPB to assist it in fulfilling its duties as required by statute and regulation.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which VA collected the information. In all of the routine use disclosures described above, either the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

Under section 264, Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Public Law 104-191, 100 STAT. 1936, 2033-34 (1996), the United States Department of Health and Human Services published a final rule, as amended, establishing Standards for Privacy of Individually-Identifiable Health Information, 45 C.F.R. Parts 160 and 164. The Veterans Health Administration may not disclose individually-identifiable health information (as defined in HIPAA and the Privacy Rule, 42 U.S.C. 1320(d)(6) and 45 C.F.R. 164.501) pursuant to a routine use unless either: (a) the disclosure is required by law, or (b) the disclosure is also permitted or required by the Privacy Rule. The disclosures of individually-identifiable health

information contemplated in the routine uses published in this new system of records notice are permitted under the Privacy Rule or required by law. However, to also have authority to make such disclosures under the Privacy Act, VA must publish these routine uses. Consequently, VA is publishing these routine uses and is adding a preliminary paragraph to the routine uses portion of the system of records notice stating that any disclosure pursuant to the routine uses in this system of records notice must be either required by law or permitted by the Privacy Rule before VHA may disclose the covered information.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: August 15, 2012

John R. Gingrich, Chief of Staff
Department of Veterans Affairs.

169VA10NC

SYSTEM NAME: Veteran Child Care Programs-VA

SYSTEM LOCATION:

Records are maintained at each VA health care facility where the child care program is in place (in most cases, backup information is stored at off-site locations). Subsidiary record information is maintained by individuals, organizations, and/or agencies with whom VA has a contract or agreement to perform such services, as VA may deem practicable.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records contain information on children who receive child care and the children's parents and/or guardians who are receiving treatment at VA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to:
(1) identifying information for child (e.g. name, birth date, age, social security number, telephone number, child's primary care physician and (2) emergency contact information for parent/guardian (e.g. name of parent, address, relationship, telephone number, alternate contact person).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, U.S.C., Section 501.

PURPOSE(S):

The records and information may be used for statistical analysis to produce various management, workload tracking, and follow-up reports; determining entitlement and eligibility for VA benefits, quality assurance audits and reviews, to track and evaluate the ordering and delivery of equipment and services for the planning, distribution and utilization of resources, and personnel management and evaluation. The data may be used for VA's extensive research programs in accordance with VA policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 38 U.S.C. 7332, i.e., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority permitting disclosure.

VA may disclose protected health information pursuant to the following routine uses where required by law, or required or permitted by 45 C.F.R. Parts 160 and 164.

1. On its own initiative, VA may disclose information, except for the names and home addresses of Veterans and their dependents, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing

or implementing the statute, regulation, rule or order issued pursuant thereto.

On its own initiative, VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto. VA must be able to comply with the requirements of agencies charged with enforcing the law and conducting investigations. VA must also be able to provide information to State or local agencies charged with protecting the public's health as set forth in State law.

2. Disclosure may be made to an agency in the executive, legislative, or judicial branch, or the District of Columbia's government in response to its request or at the initiation of VA, in connection with disease tracking, patient outcomes or other health information required for program accountability.
3. The record of an individual who is covered by a system of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member or staff person requests the record on behalf of and at the written request of the individual.
4. Disclosure may be made to NARA and GSA in records management inspections conducted under authority of Title 44, Chapter 29, of the U.S.C.
5. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the

agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

6. VA may disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law or regulation.
7. Disclosures of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform the services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.
8. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.
9. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when: (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; and (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or

another agency or disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

10. Information may be disclosed by appropriate VA personnel to the extent necessary and on a need to know basis, consistent with good medical-ethical practices, to family members.
11. VA may disclose information from this system to the FLRA, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections.
12. VA may disclose information from this system to the MSPB, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,
RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

STORAGE:

Records are maintained on paper, microfilm, electronic media including images and scanned documents, or laser optical media in the consolidated health record at the health care facility where care was rendered.

RETRIEVABILITY:

Records are retrieved by name, social security number or other assigned identifiers of the individuals to whom they pertain.

SAFEGUARDS:

1. Access to and use of national administrative databases, warehouses, and data marts are limited to those persons whose official duties require such access, and VA has established security procedures to ensure that access is appropriately limited. Information security officers and system data stewards review and authorize data access requests. VA regulates data access with security software that authenticates users and requires individually unique codes and passwords. VA provides information security training to all staff and instructs staff on the responsibility each person has for safeguarding data confidentiality.

2. Physical access to computer rooms housing national administrative databases, warehouses, and data marts is restricted to authorized staff and protected by a variety of security devices. Unauthorized employees, contractors, and other staff are not allowed in computer rooms. The Federal Protective Service or other security personnel provide physical security for the buildings housing computer rooms and data centers.
3. Data transmissions between operational systems and national administrative databases, warehouses, and data marts maintained by this system of record are protected by state of the art telecommunication software and hardware. This may include firewalls, intrusion detection devices, encryption, and other security measures necessary to safeguard data as it travels across the VA Wide Area Network.
4. In most cases, copies of back-up computer files are maintained at off-site locations.
5. VA maintains Business Associate Agreements and Non-Disclosure Agreements where appropriate with contracted resources in order to maintain confidentiality of the information.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Official maintaining this system of records and responsible for policies and

procedures is the Deputy, ADUSH for Clinical Operations, Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them or their children should submit a written request or apply in person where the child participated in the child care program. Inquiries should include the person's full name, social security number, location and dates of employment or location and dates of treatment and their return address.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of records in this system may write, call, or visit in person where the child participated in the child care program.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the Veteran or family members.